

**Maryland Department of Health and Mental Hygiene**

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM**Managed Care Organization Transmittal No. 66****August 27, 2007**

TO: Managed Care Organizations

FROM: Susan J. Tucker, Executive Director
Susan J. Tucker
Office of Health Services

NOTE: Please ensure that the appropriate staff members in your organization are informed of the contents of this transmittal.

RE: Proposed Amendments to HealthChoice and Primary Adult Care Regulations

WRITTEN COMMENTS TO:
Michelle Phinney
201 W. Preston St., Rm. 538
Baltimore, MD 21201
Fax (410) 767-6483 or call
(410) 767-6499 or
1-877-4MD-DHMH extension 6483

PROGRAM CONTACT:
Amy Gentile, Chief
Division of HealthChoice Management and
Quality Assurance
(410) 767-1482 or call
1-877-4MD-DHMH extension 1482

COMMENT PERIOD EXPIRES: September 17, 2007

The Maryland Medical Assistance Program is proposing amendments to COMAR 10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment, COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations, COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access, COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits, COMAR 10.09.69 Maryland Medicaid Managed Care Program: Rare and Expensive Case Management and COMAR 10.09.76 Primary Adult Care Program.

These amendments will:

- (1) Correct the name of the Employed Individuals with Disabilities Program;
- (2) Require MCOs to comply with sections of the Social Security Act relating to employee education regarding false claims;

- (3) Correct reference to Maryland Healthy Kids Program in the Quality Assessment and Improvement Chapter;
- (4) Remove Regulation .16 Historic Providers from 10.09.65 as it is no longer applicable;
- (5) Require MCOs to comply with the third party liability requirements of Maryland Insurance Article §15-1008;
- (6) Move zip code 20883 to the correct LAA;
- (7) Remove incorrect references to Healthy Start case management;
- (8) Update the REM disease list;
- (9) Remove obsolete definitions and program start up language from PAC regulations;
- (10) Require PAC MCOs to comply with the same marketing guidelines as HealthChoice MCOs; and
- (11) Remove the list of codes for family planning visits and contraceptive methods and devices and replace it with a blanket statement requiring that all visits and FDA approved contraceptive methods be covered under HealthChoice and PAC.

A copy of the proposed amendments, as published in the August 17, 2007 issue of the Maryland Register, is attached.

Questions regarding these amendments should be directed to the Division of HealthChoice Management and Quality Assurance at (410) 767-1482.

Attachment

[(6)] (8) State-only recipients who do not meet the requirements of Title XIX of the Social Security Act, and for whom the State does not claim federal financial participation, with the exception of those recipients who are:

(a) In subsidized adoption or foster care placements;

or
(b) Pregnant women and children not qualified for federal coverage due to their alien status.

B. The Medical Day Care program does not cover the following [services]:

(1) [Services which are not part of a participant's written plan of care as established by the multidisciplinary team and approved by the participant's physician] Days of service in excess of the frequency specified by a participant's personal physician or, for a participant enrolled in the Home / Community Based Services Waiver for Older Adults, days of service in excess of the frequency authorized by the participant's case manager;

(2) Services which are not part of those services listed in Regulation [.06] .05 of this chapter[.];

(3) More than one unit of care, per participant, per day; and

(4) A unit of care provided on the same day that the following services are provided and billed to the Department:

(a) Day habilitation services under COMAR 10.09.26;

(b) Supported employment services under COMAR 10.09.26;

(c) Programs of All-Inclusive Care for the Elderly under COMAR 10.09.44;

(d) Senior center plus services under COMAR 10.09.54;

(e) Adult day care reimbursed under the State of Maryland's human service contracts; or

(f) On-site psychiatric rehabilitation services under COMAR 10.09.59.

[.08] .07 [Preauthorization] Authorization Requirements.

A. (text unchanged)

B. The Department or its designee [will] shall annually certify as medically eligible only those financially eligible participants who require [intermediate care as specified in COMAR 10.09.11, or skilled services] nursing facility services as [specified in] defined under COMAR 10.09.10.

[.09] .08 Payment Procedures.

A. Requests for Payment.

(1) All requests for payment of services rendered shall be submitted [according to procedures established by the Department. Payment requests that are not properly prepared or submitted may not be processed, but returned unpaid to the provider] in accordance with COMAR 10.09.36.

[(2) Requests for payment shall be submitted on the form designated by the Department.]

[(3)] (2) (text unchanged)

B. Payment to a provider shall be limited [to the maximum number of days each recipient is certified eligible for medical day care services, and subject] to the number of days each [recipient actually attends a medical day care center and receives services] participant attends the medical day care center, as authorized by a participant's physician's order or Home / Community Based Services Waiver for Older Adults case manager's authorization for receipt of services.

C. Payment [will] shall be made only to a qualified medical day care provider. Payment may not be made to a [recipient] participant, or to individual nurses, physicians, so-

cial workers, activity coordinators, or aides for services rendered in connection with the provision of medical day care.

D. — E. (text unchanged)

.09 Recovery and Reimbursement.

A. Recovery and Reimbursement shall be in accordance with COMAR 10.09.36.

B. The Program shall recover payments for a unit of care when requirements of this chapter or COMAR 10.12.04 are not met.

.10 Cause for Suspension or Removal and Imposition of Sanctions.

Cause for suspension or removal and imposition of sanctions shall be in accordance with COMAR 10.09.36.

.11 Appeal Procedures.

Appeal procedures shall be in accordance with COMAR 10.09.36.

.12 Interpretive Regulation.

State regulations shall be interpreted in accordance with COMAR 10.09.36.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

Notice of Proposed Action

[07-212-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulation .01 under COMAR 10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment;

(2) Amend Regulations .02, .03, .18, and .20, and repeal existing Regulation .16 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations;

(3) Amend Regulation .06 under COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access;

(4) Amend Regulations .19, .21, and .27 under COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits;

(5) Amend Regulations .12 and .17 under COMAR 10.09.69 Maryland Medicaid Managed Care Program: Rare and Expensive Case Management; and

(6) Amend Regulations .01, .03, .07, and .10 under COMAR 10.09.76 Primary Adult Care Program.

Statement of Purpose

The purpose of this action is to:

(1) Correct the name of the Employed Individuals with Disabilities Program;

(2) Require MCOs to comply with sections of the Social Security Act relating to employee education regarding false claims;

(3) Correct reference to Maryland Healthy Kids Program in the Quality Assessment and Improvement chapter;

(4) Remove Regulation .16, Historic Providers, from 10.09.65 as it is no longer applicable;

(5) Require MCOs to comply with the third party liability requirements of Insurance Article, §15-1008, Annotated Code of Maryland;

(6) Move zip code 20883 to the correct LAA;

(7) Remove incorrect references to Healthy Start case management;

- (8) Update the REM disease list;
- (9) Remove obsolete definitions and program start up language from PAC regulations;
- (10) Require PAC MCOs to comply with the same marketing guidelines as HealthChoice MCOs; and
- (11) Remove the list of codes for family planning visits and contraceptive methods and devices and replace it with a blanket statement requiring that all visits and FDA-approved contraceptive methods be covered under HealthChoice and PAC.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulations and Policy Coordination, DHMH, 201 W. Preston St., Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dnhm.state.md.us, or fax to 410-333-7687. Comments will be accepted through September 17, 2007. A public hearing has not been scheduled.

10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment

Authority: Health-General Article, §§15-103(b)(3), (4), (6), and (23), Annotated Code of Maryland

.01 Eligibility.

- A. (text unchanged)
- B. A recipient is not eligible for the Maryland Medicaid Managed Care Program if the recipient:
- (1) — (2) (text unchanged)
- (3) Is enrolled in:
- (a) — (b) (text unchanged)
- (c) The Employed [Person] *Individuals with Disabilities Program* pursuant to COMAR 10.09.41; or
- (d) (text unchanged)
- (4) — (7) (text unchanged)

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Insurance Article, §§15-112[, and] 15-605, and 15-1008; Health-General Article, §§2-104, 15-102.3, and 15-103, Annotated Code of Maryland

.02 Conditions for Participation.

- A. — Y. (text unchanged)
- Z. *An MCO shall meet the requirements of §6032 of the Deficit Reduction Act of 2005, Pub.L. 109 — 171, which establishes 42 U.S.C. §1396a(a)(68), and relates to Employee Education about False Claims.*

.03 Quality Assessment and Improvement.

- A. (text unchanged)

B. An MCO shall participate in all quality assessment activities required by the Department in order to determine if the MCO is providing medically necessary enrollee health care. These activities include, but are not limited to:

- (1) — (4) (text unchanged)

(5) An annual *Maryland Healthy Kids* audit [by the Maryland Healthy Kids Program] in order to determine the quality of the clinical care provided to all children younger than 21 years old enrolled in the HealthChoice Program as follows:

[(a) A unit of registered nurses who are specifically trained to assess MCO and provider performance in the provision of EPSDT services to children shall conduct the audit;]

[(b)] (a) — [(d)] (c) (text unchanged)

- (6) (text unchanged)

C. (text unchanged)

.18 Third-Party Liability.

A. — G. (text unchanged)

H. For insurance coverage identified by an MCO with a retroactive effective date, an MCO shall [ensure that procedures are in place to allow for the collection of funds from either the provider or the insurance carrier for claims paid by the MCO during the coverage period, for up to 2 years from the date of treatment] *comply with Insurance Article, §15-1008, Annotated Code of Maryland.*

.20 MCO Payment for Self-Referred, Emergency, and Physician Services.

A. MCO Payment for Self-Referred Services.

- (1) (text unchanged)

(2) An MCO shall reimburse out-of-plan providers to whom enrollees have self-referred for school-based services and family planning services [specified in the table below] *including office visits (CPT codes 99201 — 99205 and 99211 — 99215), preventive medicine office visits (CPT codes 99383 — 99386 and 99393 — 99396), and all FDA-approved contraceptive devices, methods and supplies, at the established Medicaid rates [for the services or devices indicated].*

[table] (proposed for repeal)

- (3) — (9) (text unchanged)

B. — C. (text unchanged)

10.09.66 Maryland Medicaid Managed Care Program: Access

Authority: Health-General Article, §§15-102.1(b)(10) and 15-103(b), Annotated Code of Maryland

.06 Geographical Access.

A. — D. (text unchanged)

E. Geographical Access: Local Access Areas.

Local Access Area	Zip Codes
Allegany — Montgomery Mid-County (text unchanged)	
Montgomery North	20837, 20838, 20839, 20841, 20842, 20847, 20871, 20872, 20874, 20875, 20876, 20877, 20878, 20879, 20880, 20882, 20883, 20884, 20885, 20886, 20898, 20997

Local Access Area	Zip Codes
Montgomery - Silver Spring	20860, 20861, 20862, 20866, 20868, [20883,] 20901, 20902, 20903, 20904, 20905, 20906, 20907, 20908, 20910, 20911, 20912, 20913, 20914, 20915, 20916, 20918, 20990

Prince George's Northeast — Worcester (text unchanged)

10.09.67 Maryland Medicaid Managed Care Program: Benefits

Authority: Health-General Article, Title 15, Subtitle 1, Annotated Code of Maryland

.19 Benefits — Family Planning Services.

An MCO shall provide to its enrollees comprehensive family planning services, including but not limited to medically necessary office visits[,] and laboratory tests, all FDA-approved contraceptive devices, methods, and supplies, and voluntary sterilizations.

.21 Benefits — Pregnancy-Related Services.

A. An MCO shall provide to its pregnant and postpartum enrollees medically necessary pregnancy-related services, including:

- (1) — (2) (text unchanged)
- (3) Enriched maternity services, including:
 - (a) — (c) (text unchanged)
 - (d) Appropriate referrals to services that may improve the pregnancy outcome, including:
 - (i) (text unchanged)
 - (ii) Healthy Start [case management] services;
 - (e) — (g) (text unchanged)
- B. — D. (text unchanged)

.27 Benefits — Limitations.

- A. (text unchanged)
- B. The benefits or services not required to be provided under §A of this regulation are as follows:
 - (1) — (11) (text unchanged)
 - [(12) Healthy Start case management services for pregnant women and children;]
 - [(13)] (12) — [(36)] (35) (text unchanged)

10.09.69 Maryland Medicaid Managed Care Program: Rare and Expensive Case Management

Authority: Health-General Article, §§15-102.1(b)(1) and 15-103(b)(4)(i), Annotated Code of Maryland

.12 Limitations.

- A. (text unchanged)
- B. For REM participants, the Department may not pay for the following comparable case management services:
 - (1) HIV targeted case management as described in COMAR 10.09.32, except for HIV Diagnostic Evaluation Services as described in COMAR 10.09.32.03C and .04A; and
 - [(2) HealthyStart case management as described in COMAR 10.09.38; and]
 - [(3)] (2) (text unchanged)
- C. (text unchanged)

.17 Table of Rare and Expensive Disease List.

ICD-9	Disease	Age Group
042 — 277.89	(text unchanged)	

ICD-9	Disease	Age Group
[284.0	Constitutional aplastic anemia	0-20]
284.01	<i>Constitutional red blood cell aplasia</i>	0-20
284.09	<i>Other constitutional aplastic anemia</i>	0-20
286.0 — V46.1	(text unchanged)	
[V46.9	Machine dependence NOS	1-64]

10.09.76 Primary Adult Care Program

Authority: Health-General Article, §§15-101, 15-103, and 15-140, Annotated Code of Maryland

.01 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) — (13) (text unchanged)
 - [(14) "Historic Maryland PrimaryCare provider" means a participating provider of primary care health services under the Maryland PrimaryCare Program as of March 1, 2006.]
 - [(15)] (14) — [(19)] (18) (text unchanged)
 - [(20) "Maryland PrimaryCare Program" means the State funded program authorized in 1993 under COMAR 10.09.51 to provide office-based primary care to qualifying low-income adults.]
 - [(21)] (19) — [(41)] (39) (text unchanged)

.03 Enrollment.

- A. (text unchanged)
- B. The Department shall enroll a PAC-eligible individual into a PAC-participating MCO with available capacity as follows:
 - (1) (text unchanged)
 - (2) Upon the request of the individual or the individual's representative, the Department shall arrange a face-to-face meeting with a representative of the Department or its enrollment agent in order to assist an individual to select an MCO; and
 - (3) An individual who does not select an MCO within 21 days of the Department's mailing of eligibility notification shall be assigned to an MCO with available capacity in accordance with the following:
 - (a) (text unchanged)
 - (b) If §B(3)(a) of this regulation does not apply, the Department shall randomly assign the individual to any PAC-participating MCO with available capacity in the local access area[.].
 - [(4) In order to transition individuals enrolled in the Maryland PrimaryCare Program to PAC in a manner which promotes continuity of care, the Department shall:
 - (a) Determine the historic Maryland PrimaryCare Program providers of enrollees in the Maryland PrimaryCare Program as of March 1, 2006;
 - (b) When an individual's historic Maryland PrimaryCare Program provider will be in the provider panel of a PAC-participating MCO:
 - (i) Notify each individual enrolled in the Maryland PrimaryCare Program of the Department's intent to enroll the enrollee in the MCO which contains the individual's historic Maryland PrimaryCare Program provider in its provider panel;
 - (ii) Notify each individual of the enrollee's option to select a different MCO; and

(iii) Enroll each individual in the MCO which contains the enrollee's historic Maryland PrimaryCare Program provider in its provider panel, unless the enrollee selects a different MCO;

(c) If the historic Maryland PrimaryCare provider is in the provider panel of more than one PAC-participating MCO, randomly auto-enroll the enrollee to one of the MCOs that includes the historic Maryland PrimaryCare provider in its provider panel, after notification of the enrollee, unless the enrollee selects a different MCO; and

(d) If the historic Maryland PrimaryCare provider does not have a contract with a PAC-participating MCO, randomly auto-assign the enrollee to one of the MCOs that operates in the enrollee's local access area; and

(5) For individuals enrolled in both the Maryland Family Planning Program and the Maryland Pharmacy Assistance Program as of March 1, 2006, the Department shall:

(a) Autoassign each individual eligible in both the Family Planning Program and the Maryland Pharmacy Assistance Program into one of the PAC-participating MCOs which operates in the enrollee's local access area; and

(b) Notify each enrollee of:

(i) The benefits available through the PAC program;

(ii) The MCO to which the enrollee was auto-assigned;

(iii) The enrollee's option to select a different MCO; and

(iv) The option to continue receiving family planning benefits only.]

C. — E. (text unchanged)

.07 Health Care Delivery.

A. — B. (text unchanged)

C. Enrollee Handbook and Materials.

(1) — (2) (text unchanged)

(3) *An MCO shall comply with COMAR 10.09.65.23 with regard to marketing.*

D. (text unchanged)

.10 MCO Covered Services.

A. (text unchanged)

B. Family Planning Services. PAC enrollees may self-refer to any appropriate office-based family planning provider, including local health departments and free-standing clinics, without a referral from the PCP. An MCO shall cover both in-network and out-of-network services for contraceptive management and all non-surgical *FDA-approved* family planning devices, methods, and supplies when ordered by a qualified provider [such as:

(a) Oral contraceptives;

(b) Injectable contraceptives;

(c) Cutaneous contraceptive patches;

(d) Barrier methods like diaphragms, foams, rings, sponges, and condoms;

(e) Intrauterine devices (IUDs); and

(f) Implantable contraceptives].

C. — E. (text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 03 MARYLAND AVIATION ADMINISTRATION

11.03.01 Baltimore/Washington International Thurgood Marshall Airport

Authority: Transportation Article, §§5-204, 5-208, 5-805, 5-806, and 5-819,
Annotated Code of Maryland

Notice of Proposed Action

[07-219-P-I]

The Executive Director of the Maryland Aviation Administration proposes to amend Regulations .01, .01-1, .05, .06, and .12 under **COMAR 11.03.01 Baltimore/Washington International Thurgood Marshall Airport**.

Statement of Purpose

The purpose of this action is to change the airport name from Baltimore/Washington International Airport to Baltimore/Washington International Thurgood Marshall Airport in accordance with Ch. 442, Acts of 2005, and to incorporate by reference the new certified Baltimore/Washington International Thurgood Marshall Airport (BWI) Noise Zone, reflecting the noise contours for the new base year of 2005 and new future years of 2012 and 2017.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Ellen Sample, Director, Office of Noise, Real Estate and Land Use Compatibility, Maryland Aviation Administration, P. O. Box 8766, BWI Airport, Maryland 21240-0766, or call 410-859-7070, or fax to 410-859-7288. Comments will be accepted through September 17, 2007. The Maryland Aviation Administration will hold a public hearing on Thursday, September 6, 2007, at 7 p.m. in Assembly Room A/B, Maryland Aviation Administration, 991 Corporate Boulevard, Linthicum, Maryland 21090. Interested persons are invited to attend and express their views.